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Attorney for Plaintiff Xcentric Ventures, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

XCENTRIC VENTURES, LLC, an
Arizona limited liability company,

Plaintiff,

vs.

KARSEN, LTD., a foreign entity of
unknown origin d/b/a Scaminformer.com;
KURT STANGO, an individual d/b/a
Scaminformer.com; DOES 1-10, inclusive,

Defendants.

Case No: 11-cv-1055-FJM

**PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTION FOR
EXTENSION OF TIME TO RESPOND
TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

(Assigned to Hon. Frederick J. Martone)

As a matter of course, undersigned counsel will always agree to requests for extension of time *provided* the request is not prejudicial to the client. Here, as noted in the email exchange attached to Defendant's motion, after Plaintiff filed its Motion for Preliminary Injunction on February 28, 2012, undersigned counsel was first approached by Defendant's counsel regarding his request for an extension on March 6, 2012.

Rather than unreasonably rejecting this request, it was explained that the unlawful copying of material by Defendant (which continues to occur on a daily basis) has forced Xcentric to employ a full-time staff of individuals whose only job is to search for infringing content on Defendant's website and to submit DMCA removal requests to search engines such as Google. This staff costs Xcentric approximately \$6,000–7,000 per week and, of course, this figure only represents Xcentric's out-of-pocket expense; it does not address the far larger economic harm being caused by the massive diversion of traffic from Xcentric's website to Defendant's website.

1 In an effort to stop the harm caused by Defendant's actions, on February 28, 2012
 2 Xcentric sought preliminary injunctive relief here. This motion was filed slightly more
 3 than five weeks after Defendant's Answer (Doc. #19; filed 1/20/2012), not more than
 4 four months later as Defendant suggests.

5 As reflected in the email exchange between counsel, undersigned counsel
 6 informed Defendant's counsel that his request for a one-week extension was acceptable
 7 *provided* that Defendant would agree to immediately cease its unlawful copying of
 8 material from Plaintiff's website. Given the substantial out-of-pocket costs and other
 9 damage that Plaintiff has suffered and will continue to suffer, this request was entirely
 10 reasonable and appropriate.

11 Unfortunately, without any valid basis for doing so, Defendant refused to cease
 12 illegally copying material from Plaintiff's website. As a result, Plaintiff had no choice
 13 but to refuse to agree to provide Defendant with additional time to respond to the Motion
 14 for Preliminary Injunction.

15 Undersigned counsel does not dispute that Defendant's counsel has legitimate
 16 scheduling difficulties relating to an evidentiary hearing in North Dakota. Again,
 17 undersigned counsel was freely willing to agree to an extension of time to accommodate
 18 this problem, subject only on the condition that Defendant stop its unlawful conduct in
 19 the mean time (which it refused to do).

20 Xcentric continues to suffer substantial economic loses with each passing day, and
 21 at present it is unclear that Defendant has any valid defense in this action. As such, any
 22 further delay in this matter would be highly prejudicial to Xcentric and would only
 23 benefit Defendant by allowing it additional time to continue benefitting from its unlawful
 24 actions.

25 DATED March 8, 2012.

GINGRAS LAW OFFICE, PLLC

/S/ David S. Gingras

Attorneys for Plaintiff

XCENTRIC VENTURES, LLC

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2012 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to the following:

Christopher B. Ingle, Esq.
CASE ELIA, PLLC
2942 North 24th Street, Suite 114
Phoenix, AZ 85016
Attorney for Eugene Selihov

And a courtesy copy of the foregoing delivered to:
HONORABLE FREDERICK J. MARTONE
United States District Court
Sandra Day O'Connor U.S. Courthouse, Suite 526
401 West Washington Street, SPC 62
Phoenix, AZ 85003-215

/s/David S. Gingras

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